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SUMMARY RECORD OF THE 9th MEETING

Chairman:	Mr. ZARIF	(Islamic Republic of Iran)
later:	Mr. TOMKA (Vice-Chairman)	(Czechoslovakia)
later:	Mr. ZARIF (Chairman	(Islamic Republic of Iran)

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The meeting was called to order at 10.10 a.m.

AGENDA ITEM 131: REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS TWENTY-FIFTH SESSION (continued) (A/47/454)

1. The CHAIRMAN said that he had held extensive consultations in recent days with the officers of the Committee and with Committee members concerning the proposal that he send a letter to the Chairman of the Fifth Committee, suggesting that the Fifth Committee consider the question of granting travel assistance to least developed and other developing countries which were members of the United Nations Commission on International Trade Law, and take a substantive decision on it.

2. He then read out the text of a letter which had been agreed upon as a result of those consultations.

3. He took it that the Committee authorized him to send the letter which he had just read out to the Chairman of the Fifth Committee, with the understanding that the Sixth Committee would not conclude its consideration of the agenda item until it had been informed of the Fifth Committee's decision.

4. It was so decided.

5. The CHAIRMAN said that the letter to the Chairman of the Fifth Committee* would be circulated as a document.

AGENDA ITEM 136: PROTECTION OF THE ENVIRONMENT IN TIMES OF ARMED CONFLICT (continued) (A/47/328; A/C.6/47/3, A/C.6/47/L.2)

6. The CHAIRMAN said that Bangladesh, Benin and the Republic of Korea had joined the list of sponsors of draft resolution A/C.6/47/L.2. Consultations were continuing between the sponsors and those delegations which had expressed concerns about the draft resolution.

7. Mr. NEUHAUS (Australia) expressed appreciation for the report of the Secretary-General (A/47/328), and drew attention to paragraph 66 of the report, which stressed the need for realistic and effective solutions to the problems of protecting the environment in times of armed conflict.

8. A number of speakers had already noted that much remained to be done. The representative of Canada had referred to the recently concluded Second Review Conference of the parties to the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (ENMOD Convention), over which Australia had presided. Canada had raised the

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* Subsequently circulated as document A/C.6/47/4.

(Mr. Neuhaus, Australia)

possibility of the convening of a consultative committee of experts to clarify the scope and application of the provisions of the Convention, a suggestion which his delegation supported.

9. The representative of Sweden, speaking on behalf of the Nordic countries, had said that those countries would be in favour of a further examination of existing international rules for the protection of the environment in times of armed conflict, with a view to clarifying the legal framework, and had welcomed the readiness of the International Committee of the Red Cross (ICRC) to contribute to that effort with the help of leading experts in the field. That idea should be followed up, as ICRC and its group of experts had made significant progress over the past year, even though the plans for the convening of an ICRC conference at Budapest had not materialized.

10. The debate in the Committee had so far proceeded in a remarkably non-politicized manner, owing to the recognition by all countries of the fundamental importance of the issue. He expressed appreciation for the list of existing instruments contained in document A/C.6/47/3. With regard to draft resolution A/C.6/47/L.2, his delegation believed that ICRC was the appropriate body to undertake further work on the question. Consultations were being held with the sponsors of the draft resolution, and he looked forward to the presentation to the Committee of a consensus text.

11. Mr. FOWLER (New Zealand) urged all States to give priority to the full and effective implementation of the existing law on the protection of the environment in times of armed conflict. Since the previous session, the issue had been discussed in a number of international forums. First, in April 1992, at a meeting of experts convened by ICRC, attention had been drawn to the need to enhance dissemination of the existing law and to clarify aspects of its application. His delegation noted with satisfaction that another meeting of experts would be convened in January 1993. Secondly, in June 1992, the United Nations Conference on Environment and Development had adopted Agenda 21, which stated, in paragraph 39.6 (a), that measures in accordance with international law should be considered to address, in times of armed conflict, large-scale destruction of the environment. Lastly, the Second Review Conference of the parties to the ENMOD Convention had been held in September 1992; his delegation urged the parties to give careful consideration to the question of the convening of a consultative committee of experts under article V of the Convention.

12. Mr. CALERO RODRIGUES (Brazil) said that a principle of customary international law which, in general terms, protected the environment in times of armed conflict had been recognized implicitly in paragraph 39.6 (a) of Agenda 21, adopted by the United Nations Conference on Environment and Development.

13. The question rose as to whether the obligation to protect the environment was affected by the involvement of the State concerned in an armed conflict;

(Mr. Calero Rodrigues, Brazil)

conditions might be such that, on the one hand, the State would be materially prevented from fulfilling its existing obligations, while, on the other hand, it might become liable to new and more specific obligations. Provisions governing such cases were embodied in a number of instruments of humanitarian law (A/C.6/47/3). Some of those instruments had not achieved the widest acceptance, and some of the rules which they contained would be more effective if they were clarified and given a uniform interpretation. That, rather than the codification of new rules, should be given priority.

14. It was becoming increasingly clear that the weak point of international law was the difficulty, if not the impossibility, of ensuring its implementation. With regard to the item under discussion, it would be advisable to explore ways of strengthening the existing implementation mechanisms and of creating, where feasible, new and more efficient ones. His delegation suggested that ICRC should include that question in its future programme of work, or, if it was unable to do so, that the General Assembly should entrust the task to one of its subsidiary organs or set up an ad hoc body for that purpose.

15. With regard to draft resolution A/C.6/47/L.2, his delegation found it difficult to accept the omission of any reference to ICRC, which had played such an important role. Furthermore, while the three operative paragraphs of the draft resolution were unobjectionable, they all constituted recommendations for internal action by States. No reference had been made to possible international action to strengthen the existing law, to clarify its provisions or to enhance its implementation.

16. Mr. SHESTAKOV (Russian Federation) said that the environmental disaster resulting from the Gulf war, whose long-term consequences were as yet difficult to forecast, had highlighted the fact that premeditated and indiscriminate destruction of the environment in times of armed conflict constituted not merely an evil but a crime, particularly since the effects of such destruction could spread far beyond the geographical focus of the conflict itself: such acts were clearly violations of the norms of international law and could not be justified even as reprisals.

17. For that reason, a concerted effort on the part of the international community to prevent and eliminate conflicts - an approach which so far had often proved belated or inadequate - was essential. Without belittling the importance of existing machinery for conflict prevention, new mechanisms of international legal settlement should be developed, as the need arose, in order to exclude the possibility of exploiting the environment as a means of warfare, and also to encourage the settlement of ecological disputes arising from armed conflicts.

18. While the primary aim must be to prevent the emergence of situations which might have unforeseeable environmental consequences, it was vital, if armed conflict did occur, to protect the victims of such conflict by

(Mr. Shestakov, Russian Federation)

regulating the means by which war was waged. At the same time, the number and variety of conflicts led to problems in overcoming the gaps in international humanitarian law and in defining the scope of the existing norms. By way of example, at the previous session his delegation had drawn attention to the lack of a unified interpretation by Member States of the scope of the ENMOD Convention. It must be recognized, however, that that the Convention, like other instruments, must be seen in the historical, political, military and economic context of its time, and the development of the norms of international humanitarian law and their application must be recognized as an ongoing process.

19. Much remained to be done in that regard. In particular, not all States had so far become parties to such important instruments as the Protocols Additional to the Geneva Conventions of 1949. Even if they had not yet done so, it was essential that their behaviour conform to the spirit of contemporary international humanitarian law. Russia continued to be a party to the additional Protocols, and advocated their universal acceptance. The ratification of those instruments by the member States of the Commonwealth of Independent States and by other countries could only contribute to the stabilization of international relations. Similarly, States should be encouraged to make the declaration provided for in article 90 of Protocol I concerning the International Fact-Finding Commission.

20. In conclusion, he welcomed the significant contribution made by ICRC in the study of the problem of protecting the environment in times of armed conflict, and in particular the conclusions reached by the meeting of experts convened by ICRC at Geneva from 27 to 29 April 1992, which were outlined in the Secretary-General's report (A/47/328).

21. Mr. AHMED (Iraq) said that agenda item 136 was of particular interest to his delegation in view of the enormous long-term environmental damage done to his country by the use of advanced military technology against it. The extent of the disaster had been described in the reports of various missions (S/22328, S/22366 and S/22799). Moreover, the continued embargo against Iraq which was preventing the import of spare parts to repair damaged facilities, had led to an accumulation of garbage and untreated sewage in city streets, severe pollution of rivers, the degradation of agricultural land and a serious deterioration in the health of the population.

22. Such arbitrary use of weapons of mass destruction made a review of existing law ever more urgent. His delegation, which paid tribute to the efforts of ICRC in that regard, believed that existing instruments of international humanitarian and environmental law covered most aspects of the issue. It remained necessary, however, to ensure strict compliance with such instruments, while avoiding narrow political interpretations or the application of double standards.

23. Mr. NOBILO (Croatia) said that the item under consideration was of particular concern to his delegation because Croatia had recently experienced the impact of war on its own environment. In that context, it welcomed the substantial information provided by ICRC, which was all the more important in that, as a respected international humanitarian organization, ICRC had access to all armed conflicts.

24. Although there was a sufficient number of international legal instruments dealing with the protection of the environment in times of armed conflict, it was not enough that Governments accepted the rules provided in those instruments: military staff, who were directly involved in armed conflicts, must be acquainted with them. That was one of the reasons why his delegation had joined the list of sponsors of the draft resolution submitted by the delegations of Jordan and the United States on the item under consideration (A/C.6/47/L.2), which in paragraph 3 urged States to take steps to incorporate the provisions of international law applicable to the protection of the environment into their military manuals and to ensure that they were effectively disseminated.

25. The devastation inflicted by war in the territory of Croatia had taken the form of damage, some of it permanent or long-term, to the land, watercourses, flora, fauna and topographical features. Since some of the game preserves, forest parks and gardens were located in the areas affected by the war, it was impossible fully to ascertain the situation. Nature reserves in Croatia were also seriously endangered because of the departure of the scientists and experts responsible for their upkeep, and because long-term restoration of the sites would require additional financial resources and aid.

26. Attention should also be drawn to ecological terrorism, such as the destruction of industrial facilities and power plants, such as the Sisak refinery, where numerous fires had occurred, in addition to oil-spills into the Sava river. Letters had been sent to international organizations such as the United Nations Environment Programme and the United Nations Educational, Scientific and Cultural Organization acquainting them with that dimension of the war against Croatia.

27. In conclusion, he said that, while it was unlikely that it would prove possible to prevent or halt armed conflicts in the future, everything possible should be done to diminish the severity of their consequences. It was for that reason that his delegation was supporting the draft resolution on the item.

28. Mrs. FLORES (Uruguay) said that, during the debate on the item at the forty-sixth session, her delegation had emphasized the importance of prevention, the necessity of creating mechanisms to monitor situations in which there were reasonable expectations that the environment would be exploited as a weapon and the desirability of establishing a jurisdiction to consider disputes relating to the environment. The question of prevention could be approached from several points of view; account must be taken of the

(Mrs. Flores, Uruguay)

potential threat which nuclear arms and other weapons of mass destruction represented and of the fact that even disarmament measures could severely contaminate the environment. The concept of prevention also included actions to protect the environment both before and after the outbreak of an armed conflict. In that context, it would be worthwhile to discuss the possibility of establishing early-warning systems to operate in case of damage to the environment in times of armed conflict. Another preventive measure would be a prohibition on the development, production, sale or use of weapons which had a directly harmful impact on the environment.

29. One question which had arisen recently, in the light of developments during the Gulf crisis, was whether or not existing international law fully ensured the protection of the environment in times of armed conflict. In her delegation's view the damage which had occurred in that situation was not the result of deficiencies in the law, but of the failure to implement it. Accordingly, the solution would be to esablish mechanisms for ensuring compliance with the rules and a sanctions regime to be applied if they were violated.

30. There were, however, deficiencies in the existing treaty law, in particular, which could be overcome through the elaboration of supplementary provisions. For example, the ENMOD Convention which prohibited military or any other hostile use of environmental modification techniques having widespread, long-lasting or severe effects, failed to specify what such effects might be. Similar observations could be made with regard to Additional Protocol I to the Geneva Conventions of 1949.

31. A recent contribution to the question had been made in the Rio Declaration adopted at the United Nations Conference on Environment and Development. Principle 24 of the Declaration stated that warfare was inherently destructive of sustainable development and that States should therefore respect international law providing for the environment in times of armed conflict.

32. Her delegation supported the proposal that the existing norms on the subject should be compiled with a view to the preparation of a future framework convention, as well as the suggestion made by several delegations that the rules on environmental protection should be included in military manuals. Such a manual, if universally accepted and periodically updated, would be of immense value.

33. Mr. LIAO Jingcheng (China) said that the question of protecting the environment in times of armed conflict had become an urgent challenge facing the international community, particularly in the light of the increasing destructiveness of the instruments of warfare - a challenge that had been taken up in a number of recent forums organized by the United Nations and ICRC. For its part, his Government was taking an active part in international cooperation concerning the study and codification of rules of international law in that field.

(Mr. Liao Jingcheng, China)

34. From a political, legal and technical point of view, the protection of the environment in times of armed conflict was a complex issue, firstly because the very survival of mankind depended on the environment, and secondly because the advancement of modern science and technology, while greatly enhancing the deterrent power and precision of the means of warfare, had undoubtedly also increased its impact in terms of casualties and environmental damage. Thirdly, although the international principles and rules in that field largely derived from customary international law, and some relevant provisions could be found in international treaties, the precise scope of customary law and the rules provided under the relevant international treaties had yet to be clearly defined. His delegation accordingly believed that the current task should be the strengthening and coordination of the study and codification of the existing laws and treaties, a task best entrusted to ICRC.

35. Mr. MOTSYK (Ukraine) said that the recent conflict in the Gulf, in which Iraq had deliberately released large quantities of oil into the sea and set fire to numerous well-heads, had provided a clear illustration of the hostile use of environmental modification techniques in contravention of international law. The conflict had thus raised serious issues regarding the legal basis for preventing the use of such techniques in periods of conflict.

36. Contemporary international law already contained a whole series of rules governing armed conflict, as could be seen from the memorandum submitted by the Permanent Missions of Jordan and the United States (A/C.6/47/3, annex). However, there was a clear need to enhance the effectiveness of those norms, a goal which could only be achieved if States which had not yet done so acceded to the relevant international conventions and strictly complied with their provisions. Efforts should also be made to eliminate the gaps and shortcomings in the existing international law, some of which had been pointed out by the Austrian delegation at the previous meeting.

37. Conflicts under way in various regions were liable to result in environmental disaster for the populations affected, in particular through the threat to destroy dams and production facilities. The question of hostile environmental modification was thus of great urgency.

38. In conclusion, he said that tribute should be paid to the important work being carried out by ICRC in disseminating information about international humanitarian law, and in particular the rules governing protection of the environment in times of armed conflict. The Sixth Committee should be regarded as the most appropriate forum in which to consider the legal aspects of that problem.

39. Mr. CHATURVEDI (India) said that the question of the international law, and especially the law of war, applicable to the protection of the environment during armed conflict, had arisen in relatively recent times, although the conduct of war, including the methods and means of warfare, had been legally regulated under international humanitarian law ever since the 1868 Declaration

(Mr. Chaturvedi, India)

of St. Petersburg. It was not until the advent of Additional Protocol I to the Geneva Conventions in 1977 that the question of the environment in times of armed conflict had been dealt with directly. Whereas article 35 of the Protocol set out the general rules applicable to acts of warfare, article 55 was intended to protect the civilian population from the effects of warfare on the environment. The Protocol thus prohibited two kinds of activities, namely attacks on the environment as such, and the use of the environment as an instrument of warfare. It prohibited only such damage as was "widespread, long-term and severe", but not other damage to the environment. Nor did it clarify what constituted "widespread, long-term and severe" damage.

40. Among other modern international legal instruments, the ENMOD Convention was of particular relevance, but had the disadvantage of failing to elucidate the criterion for assessing the nature of damage or to provide for a mechanism for the investigation and settlement of any disputes. Similarly, it did not provide for the submission of environmental data to States parties at the initial stages of a crisis. Some of those issues had arisen in the course of the Second Review Conference of the Parties to the ENMOD Convention, held at Geneva from 14 to 21 September 1992.

41. India had played an active role in the successful conclusion of Additional Protocols I and II to the 1949 Geneva Conventions, and in the successful outcome of the Earth Summit held at Rio de Janeiro. His country was a party to most of the relevant conventions, including the ENMOD Convention, and the question of accession to Additional Protocol I was under consideration.

42. His delegation would have no objection if the Sixth Committee were to discuss the legal aspects of the topic, with a view to promoting and developing the applicable regime. ICRC could be fully involved in that exercise. Lastly, the results of the Second Review Conference should be analysed by the Secretariat in time for the next session of the General Assembly.

43. Mr. YENGEJEH (Islamic Republic of Iran) commended ICRC for its work during the past two years to help determine whether existing international law offered an adequate response to environmental disasters. Citing paragraphs 40 and 61 of the Secretary-General's report (A/47/328), he emphasized that the real problem relating to the protection of the environment in time of war was not the inadequacy of existing norms, but rather the ignorance of or lack of will to implement, existing obligations under international law. His delegation agreed that every effort should be made to ensure the full implementation of existing relevant rules and norms, and that it was important to increase awareness of and clarify ambiguous points in the relevant laws in order to promote their implementation. His delegation looked forward to concrete proposals on the subject from ICRC and other interested parties and believed that the handbook of model guidelines for military manuals which ICRC planned to prepare was a timely initiative.

44. Mrs. KOUPTCHINA (Belarus) said that the disaster at the Chernobyl nuclear power plant had made Belarus particularly aware of the value and fragility of the environment, and also of the need for coordinated action at the international level to prevent damage to the environment, and to eliminate the consequences of such damage. Belarus supported the notion of the global interest of the international community as a whole in the protection of the environment.

45. While recognizing the need to strengthen existing norms of international humanitarian and environmental protection law and also to improve their implementation, her delegation believed that emphasis should be placed on the interpretation and development of those norms. Existing international law established only limited restrictions on the use of the environment for military purposes because there were imprecise formulations which allowed the possibility of various interpretations. There was also a significant problem posed by the sphere of operation of the international legal norms; in particular it was not clear to what extent they were applicable during times of armed conflict.

46. It was difficult to work out a mechanism for the implementation of international legal norms which contained vague terms, and principles which were general in nature. Her delegation therefore welcomed the willingness of ICRC to contribute to the process of clarifying and interpreting existing norms with the help of the most competent experts in that sphere.

47. The observance and implementation of existing norms of international law on the protection of the environment, and educational work in that area were very important. Belarus supported the appeal to States to incorporate the provisions of international law applicable to the protection of the environment into their military manuals and to ensure that they were effectively disseminated. As one of the 29 States which had made the declaration provided for in article 90 of Additional Protocol I to the Geneva Conventions of 1949, Belarus urged all States which had not yet done so to recognize the competence of the International Fact-Finding Commission as soon as possible.

48. Her delegation supported the proposal to keep the item on the agenda of subsequent sessions of the General Assembly, and, in the Sixth Committee, to consider the problems of the development and improvement of the relevant international legal norms and principles.

49. Mr. ROSENSTOCK (United States of America) said that the horror of the senseless assaults on the environment perpetrated during the Gulf conflict had generated a sense of urgency to review the adequacy of applicable laws to protect the environment. A meeting of experts convened by ICRC had confirmed that existing laws of war fully proscribed the conduct during the conflict which had had such a serious impact on the environment.

(Mr. Rosenstock, United States)

50. It was necessary to guard against unintentionally weakening existing international law by implying that it had to be strengthened through the elaboration of new law, when the real need was to ensure that existing law was fully understood and applied. International law prohibiting wanton and intentional destruction of the environment was well developed. The memorandum submitted by his delegation and that of Jordan (A/C.6/47/3, annex) identified specific provisions of international law which provided protection for the environment during armed conflict - and thus outlawed the environmental horrors wrought during the Gulf conflict - and set out principles of international law which provided additional protection for the environment to States parties in times of armed conflict.

51. One delegation had purported to give five reasons why new law was needed, but an examination of those reasons showed that they were based, inter alia, on an excessively narrow reading of existing law. It was untrue, for example, that damage to the environment was prohibited only when it caused harm to human health. Existing treaty law under the Hague and Geneva regimes prohibited the destruction of property. It was also untrue that new law was necessary because the principle of proportionality was applied in favour of military necessity. The coalition forces in the Gulf conflict, desiring to spare the historic temples at Ur, had not bombed them even though MiG aircraft had been stationed there.

52. Another speaker had asserted at the current meeting that prohibited weapons had been used in the Gulf conflict. However, except perhaps for the Scud missiles fired at States not engaged in the hostilities - attacks for which there had been no military justification and which had constituted a flagrant violation of the rule of law - no prohibited weapons had been used.

53. Statements to the effect that damage which was not long-lasting or severe was not covered because of the focus of the ENMOD Convention denigrated the law that flowed from the Hague Convention respecting the Laws and Customs of War on Land and the Hague Regulations and the 1949 Geneva Conventions. The fact that "environment" was not the term used in those instruments did not mean that environmental damage was not covered. Statements about how grave breaches were treated were not about lacunae in the law but, rather about compliance with existing law. The Security Council was likely to adopt a resolution soon dealing directly with grave breaches. His delegation strongly supported the application of existing law. However, references to highly controversial portions of the incomplete drafts of the International Law Commission on State responsibility were not particularly relevant to the matter under discussion.

54. It was important to maintain a careful balance between prohibitions on certain means and methods of warfare, on the one hand, and the legitimate right of self-defence, on the other hand, in order to ensure the effectiveness of laws in that area. New provisions created unnecessarily in response to recent events would risk disrupting that balance, resulting in rules that

(Mr. Rosenstock, United States)

constrained Governments in attaining legitimate military objectives. Any such rules, however laudable the intent of those who drafted them, were bound to be disregarded in wartime, thereby undermining all international law, including, in particular, international humanitarian law.

55. It was to be hoped that the fundamental changes occurring throughout the world had reduced the likelihood that nations would continue to resort to arms to resolve disputes. Nevertheless, in time of war some collateral damage to the environment and collateral damage to civilian objects and collateral injury and death to civilians were inevitable. It was also true that outlaw regimes would violate new international law just as they had violated existing law. The General Assembly therefore should encourage the dissemination of and compliance with existing provisions of the law of war, for universal application of those laws would have a positive impact on environmental protection.

56. Draft resolution A/C.6/47/L.2 concentrated on constructive measures to that end, and the ideas put forward by ICRC, including its offer to develop model guidelines for military manuals, were of particular merit. The draft resolution and the memorandum in the annex to document A/C.6/47/3 had helped to focus the discussion in the Committee, and he believed that, in the light of the statement by the representative of Brazil, it should be possible to negotiate a basis for a resolution that could be adopted by consensus.

57. Mr. YAHYA BABA (Malaysia) welcomed the active participation of States and international organizations in the deliberations on means to prevent environmental damage in times of armed conflict. He shared the concern of other delegations about the defects in and inadequacies of existing legal instruments in that regard. Regrettably, many relevant instruments were not universally understood, accepted and complied with. Frequent airing of the issue in various forums would create broader awareness, a prerequisite for increased international acceptance. The proposed model guidelines for military manuals would provide useful guidance. As was clearly indicated in the reports of the Secretary-General and ICRC, many ambiguities in the existing norms must be cleared up, for at times they were used by certain parties to justify unacceptable actions.

58. Damage to the environment also occurred in peacetime as a result of various activities, including the production and testing of nuclear weapons, military training and exercises, the estabishment of military bases and installations and the maintenance of combat-readiness. Even with the best of intentions, accidents occurred, as demonstrated by the recent incident in which five Turkish armed forces personnel had been killed in a military exercise. Precautionary measures must be taken to prevent such incidents. While his delegation welcomed agreements to limit nuclear testing, it hoped that the parties concerned would commit themselves to an immediate and complete ban on all types of nuclear testing. The end of the cold war provided an impetus to arms control and disarmament, and it was imperative to

(Mr. Yahya Baba, Malaysia)

limit, if not totally eliminate, harm to the environment caused by the destruction of weapons and other military equipment.

59. His delegation was equally concerned that the improper storage and transportation of weapons of mass destruction could cause severe damage to the environment. His country, along with other States bordering the Strait of Malacca, had often expressed deep apprehension regarding the possibility of accidents in the Strait involving ships carrying deadly substances. The increasing number of accidents involving oil-tankers in the Strait provided a timely reminder that the international community must address the issue in order to work out a system to prevent such occurrences.

60. The agenda item under discussion was limited in scope and should be broadened to include military activities both in times of armed conflict and in peacetime. His delegation looked forward to participating in the ongoing discussions on the item.

61. Mr. Tomka (Czechoslovakia), Vice-Chairman, took the Chair.

62. Mr. JAREŠ (Czechoslovakia) commended ICRC for its efforts to provide assistance and protection to the victims of armed conflict and its work on the development and codification of international humanitarian law. He pledged his delegation's support for its work on the protection of the environment in times of armed conflict.

63. Starting with the Geneva Conventions of 1949, international humanitarian law had evolved over the decades, and it was now widely acknowledged that States had the obligation to prevent armed conflict as such by resolving international disputes by peaceful means. Accordingly, with rare exceptions, an outbreak of an armed conflict unequivocally indicated that at least one belligerent had failed to respect that basic obligation, and such an outbreak in fact constituted an act of aggression.

64. The experience of recent conflicts and the discussion the preceding week of the item on the status of the Protocols Additional to the Geneva Conventions of 1949 showed clearly that those who violated the basic rules of international law and the Charter displayed the same disregard for the rules of international humanitarian law. Such belligerents also failed to take environmental concerns into account. The case of non-international armed conflict was even more complex.

65. It was therefore imperative to increase understanding of and ensure compliance with existing international law applicable to the protection of the environment in times of armed conflict. Prosecution of war criminals would be a valuable deterrent. The International Law Commission could appropriately reflect concerns regarding the item under consideration when evaluating the observations of States concerning the draft articles of the draft code of crimes against the peace and security of mankind and when discussing the various aspects of an international criminal jurisdiction.

(Mr. Jareš, Czechoslovakia)

66. His country was a party to all the relevant international instruments listed in the memorandum annexed to document A/C.6/47/3 and believed that States which had not yet done so should be encouraged to become party to the relevant international conventions applicable to the protection of the environment during armed conflicts. Intensive discussion of the issue in the Sixth Committee, ICRC and other forums should result in specific suggestions as to how to fill existing gaps in the legal regime relating to the protection of the environment in times of armed conflict and how effectively to address the problem of implementation.

67. Mr. YAMAMOTO (Japan) said that the protection of the global environment was one of the most serious challenges facing the international community. Japan therefore welcomed the increasing recognition and understanding of existing international law pertaining to the environment in times of armed conflict. His delegation noted with satisfaction the work of ICRC on the issue during the past year, as well as other meetings convened to discuss whether existing law offered an adequate response to environmental disasters, including the Conference on a Fifth Geneva Convention. The United Nations Conference on Environment and Development, in which his delegation had actively participated, had underscored the need for measures in accordance with international law to address large-scale destruction of the environment in times of armed conflict.

68. The Secretary-General's report (A/47/328), which presented a comprehensive explanation of the existing law pertaining to environmental protection in times of armed conflict, and the memorandum submitted by the delegations of Jordan and the United States (A/C.6/47/3), were helpful contributions to the discussion of the question. Existing international law contained certain provisions not originally aimed at environmental protection as such, but which nevertheless were applicable to environmental protection in times of armed conflict. It was therefore important to facilitate a common understanding among States of existing law and to clarify the interpretation of relevant international law through, for example, expert meetings of ICRC. His delegation hoped that ICRC would continue its consultations with experts to delve further into such matters as the relationship between international humanitarian law and international environmental law, and that it would set up a programme of further activities in that field. While States should of course strive to prevent armed conflict in the first place, they should, in time of war, comply with international law relevant to the protection of the environment in times of armed conflict.

69. Mr. AL-GHANIM (Kuwait) said that his delegation welcomed continued consideration of the current agenda item, particularly in view of the unprecedented environmental disaster inflicted on his country and neighbouring regions when Iraqi regime set fire to its oil wells and deliberately released millions of barrels of oil into the waters of the Gulf. While the immediate effects on water, air and soil were only too visible, the long-term effects on human life were a source of even greater concern.

(Mr. Al-Ghanim, Kuwait)

70. His delegation was in full agreement with the conclusion, stated in the report of the Secretary-General, that the search must continue for ways of protecting the natural environment in times of armed conflict. In that connection, it supported the continuation of ICRC expert consultations, including the preparation of a handbook of model guidelines for military manuals. It endorsed the main conclusions stated in paragraph 40 of the report, as well as the need to develop or clarify existing law to deal with the issues listed under paragraph 43.

71. His delegation endorsed the related principles of the Rio Declaration, on Environment and Development, particularly principle 24, and welcomed the results of the meeting of experts convened under the auspices of ICRC at Geneva in April 1992. Proper compliance with existing rules could best be ensured by the accession of the greatest possible number of States to existing treaties and use of the specific mechanisms provided for under instruments of international humanitarian law.

72. Mr. Zarif (Islamic Republic of Iran) resumed the Chair.

73. Ms. RIVERA (Costa Rica) said that the question of the protection of the environment in times of armed conflict had aroused great concern in the international community, particularly after the Gulf crisis. The world had entered a new era of international relations in which there was a conviction that, although intervention could be legitimate, wars generally brought destruction, suffering, death and misery. A change of attitude was therefore needed, and true political will, so that States would opt to solve conflicts through peaceful means and agree to sign and implement international conventions with a view to protecting human life, natural resources and the environment.

74. The international community had legal instruments to protect the environment; their legal content derived from international humanitarian law and other sources of international law. An appeal should be made to States which had not yet done so to sign or ratify those legal instruments. The work initiated by the group of experts convened under the auspices of ICRC was very important; her delegation looked forward to receiving the report of its forthcoming meeting, with conclusions and proposals.

75. It was necessary to take into account other threats to the environment, such as nuclear, chemical, biological, bacteriological and some conventional weapons. According to the United Nations Conference on Desertification, chemical and biological weapons had led to the destruction or degradation of ecosystems and desertification. For that reason, multilateral disarmament agreements must be taken into consideration, in order to protect the environment.

76. The international community should be concerned about the environment and the adoption of measures to protect it not only in times of armed conflict but

(Ms. Rivera, Costa Rica)

also in peacetime, as in the case, for example, of the dangerous maritime shipments of plutonium between the European and Asian continents, which were causing justifiable alarm among many States which could potentially be threatened by those highly toxic shipments.

77. Mr. MONTES DE OCA (Mexico) noted that there had been general agreement at the previous session to broaden the scope of the item under consideration, and the title had been changed accordingly. His delegation awaited the conclusions of the meeting of experts to be convened by ICRC in January 1993 and the preparation of a handbook of model guidelines for military manuals.

78. In the course of the debate, delegations had referred to various areas of international law which were directly related with the item under consideration. The memorandum in the annex to document A/C.6/47/3 contained broad references to legal provisions of international law referring to the protection of the environment. The representative of Sweden, speaking on behalf of the Nordic countries, had also referred to the legislation on the law of the sea, which was not mentioned in that document. It was necessary to continue the study of existing law and to bring together scattered provisions to assist the Committee's future work on the item. His delegation welcomed the mandates established by the United Nations Conference on Environment and Development and Agenda 21.

79. In the area of disarmament, his Government welcomed France's ratification of Additional Protocol I to the Treaty of Tlatelolco, and the process for the full inclusion of Argentina, Brazil and Chile in the nuclear-weapon-free zone in Latin America. It hoped that Cuba, and also Guyana and Saint Kitts and Nevis, would soon join that regime.

80. His delegation regretted that it could not go along with an invitation to ratify indiscriminately all the international instruments referred to by various speakers. It was significant that some of the sponsors of draft resolution A/C.6/47/L.2 had not yet ratified the central convention on the item: the ENMOD Convention. Various speakers had drawn attention to the shortcomings of that convention; Mexico shared the concern of the representative of Austria regarding its limited sphere of application. His Government had voted against the adoption of the Convention, at the thirty-first session, because of the authorization given to States parties in article I, paragraph 1, to engage in military or any other hostile use of environmental modification techniques as the means of destruction, damage or injury to other States parties, provided that they did not have widespread, long-term or severe effects. His delegation agreed that the concept of crimes against the environment should be developed in the context of the work of the International Law Commission concerning the draft Code of crimes against the peace and security of mankind.

81. Various delegations had referred to aspects of international judicial cooperation in connection with article 146 of the fourth Geneva Convention of

(Mr. Montes De Oca, Mexico)

1949; article 146 actually provided for the possibility of a State High Contracting Party handing a person over for trial to another High Contracting Party concerned, thereby establishing a regime of international judicial cooperation which was very similar to the extradition regime. That international cooperation should always be subject to respect for the principles of international law and the guarantees of the judicial process.

82. Mr. SEGER (Observer for Switzerland) said that Switzerland attached particular importance to respect for international humanitarian law and, in that context, to the protection of the environment in times of armed conflict. The existing international legal provisions, namely articles 35 and 55 of Additional Protocol I to the Geneva Conventions of 1949, and the ENMOD Convention provided adequate protection for the environment if they were universally applied and strictly respected. Better protection of the environment should therefore begin with the promotion of those instruments with a view to their universal acceptance. His delegation welcomed the appeal to that effect contained in draft resolution A/C.6/47/L.2.

83. Measures for an enhanced observance of existing law should also include a better dissemination of humanitarian law among the authorities and the armed forces. In addition, the relevant provisions should be analysed with a view to determining whether they still guaranteed the full protection of the environment in practice.

84. In that context, the list of provisions of international law applicable to the protection of the environment during armed conflict set out in the annex to document A/C.6/47/3 provided a very useful basis for future discussion. It should, however, be noted that the "Martens" clause, also applied to the protection of the environment.

85. The substantive work on the protection of the environment in armed conflict should be done mainly by the competent bodies established to that effect, including ICRC's expert group. That would allow for a serious, realistic and impartial approach to the problem. Any lacunae should be filled in a pragmatic and constructive manner through a gradual development of existing law, by clarifying and interpreting the relevant provisions and, if the need arose, by adding formal amendments to those rules. Switzerland would be ready to participate actively in the elaboration of new rules if they reinforced the current standard of protection of the environment. His delegation would welcome a decision by the General Assembly to follow the work being carried out in the various bodies in order to provide support.

Statements in exercise of the right of reply

86. Mr. AHMED (Iraq) said that his delegation felt frustrated because two delegations had tried to politicize the item under consideration and prevent the Committee from reaching a common understanding on environmental protection. The damage caused to the environment in the Gulf had been the

(Mr. Ahmed, Iraq)

subject of Security Council resolutions. However, the allied countries had gone beyond those resolutions, without recognizing their moral and legal responsibility for the damage they had deliberately caused to the people and environment of Iraq, in violation of the Charter and of the relevant Security Council resolutions. The allegations made by the representative of Kuwait did not merit serious consideration.

87. Mr. MORADI (Kuwait) said that he wished to reiterate the points made in his delegation's statement with regard to the Iraqi regime's devastation of oilfields and release of oil into the waters of the Gulf. His delegation had mentioned those points not to politicize the problem but simply to refer to incidents which the whole world had witnessed; the Iraqi regime's crimes had had a direct impact on the environment and on human life.

The meeting rose at 12.55 p.m.